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# THE SOCIALIZATION OF JURORS THE VOIR DIRE AS A RITE OF PASSAGE

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## ABSTRACT

*The socialization of jurors, which takes place as a latent function of the* voir dire, *is described in terms of the distinct experiences that constitute the passage from the status of "ordinary citizen" to membership in the courtroom social setting. Implications of the lack of this* voir dire *socialization on mock jury research are discussed. Future research on the significance of the juror role and the extent to which the socialization during* voir dire *helps jurors set aside their normal decision-making rules are also discussed.*

## INTRODUCTION

Beginning with Robinson's (1950) pioneering study of jury selection, the American jury system has occupied the attention of social scientists for more than a quarter of a century. Most of the empirical work on juries can be divided into two broad categories. First are the simulated jury studies inaugurated by Strodtbeck and his colleagues (Strodtbeck and Mann, 1956; Strodtbeck, James, and Hawkins, 1957; Strodtbeck and Hook, 1961).[1] These studies have typically examined the dynamics of social interaction within the jury room to determine how juries arrive at decisions. Generally this line of research has suggested that jury deliberation falls far short of the ideal that all men are social equals within the jury room. In their experimental study of mock juries, Strodtbeck, James, and Hawkins, (1957) concluded that sex and occupational status were both related to participation, perceived competence as a juror, and influence on the jury's final decision. Because legally irrelevant variables like sex and social status have been shown to influence the decision-making process, the implication of these studies is that juries are something less than fair and impartial in their deliberations.

The second line of research has focused on the composition of juries. Robinson (1950) confirmed what many observers of the American jury system had long suspected: Juries are not representative of the general population. Instead, their composition reflects considerable social and economic bias. Recently social scientists have lent their expertise to attorneys, especially in political conspiracy trials, in order to select the "best" possible jurors (Bermant, 1975; Schulman et al., 1973). A "good" juror in these studies is usually one who would vote for acquittal since, in every case known to the authors, social scientists have worked with defense attorneys. Their methods have varied, but in each case their orientation has been the same: By measuring the values, attitudes, and beliefs of prospective jurors, or by ascertaining sociologically relevant variables like age, occupational status, and political affiliation, it is possible to determine how a juror will feel about the case when he walks into the jury room (Bermant, 1975; Boehm, 1968; Mitchell and Byrne, 1973; Schulman et al., 1973; Vidmar and Crinklaw, 1973). Information of this sort has been used by defense attorneys to disqualify prospective jurors during the pretrial *voir dire* examination.

Unfortunately, studies of jury selection and deliberation have ignored a critical feature of the jury system. To be a juror is to occupy a highly institutionalized social role. The juror does not think and act in a normative vacuum, nor does he respond solely in terms of preexisting behavioral tendencies. The juror does not merely walk into the jury room and begin deliberation – he has to learn how to act like a juror. He must, in short, undergo a period of socialization before he begins his work.

In the following paper we will argue that jurors experience a brief but intensive period of socialization even before the trial begins. Most of this socialization occurs during the *voir dire* when attorneys question prospective jurors about their backgrounds and biases in order to determine their competence to render a fair and impartial verdict. We will explain the nature of the socialization process, emphasizing those features of the courtroom setting and the interaction therein that facilitate adoption of the juror's role. Finally we will explore the implication of our findings for other empirical studies of jury selection and decision making.

## DATA COLLECTION

We observed ten *voir dire* sessions in two different jury terms, each lasting approximately two weeks. Prior to our study one of us had been chosen for jury duty, and after a few days in the courtroom it occurred to him that a significant latent function of the *voir dire* is the

socialization of jurors. What began as the random observations of a pure participant became the focused observation of a participant-observer. Later the rest of us supplemented his initial observations during a second jury term. The small sample of ten sessions appeared adequate because, in the words of Glaser and Strauss (1967), saturation was achieved very rapidly. That is, after only a few trials it quickly became apparent that our observations were becoming redundant and nothing new was being learned. In the judicial district where this study was conducted the *voir dire* tends to be highly structured and very repetitive. Each session is very much like every other session.

To test our observations systematically, we undertook a content analysis of the transcripts of three *voir dire* sessions. Since we were explicitly concerned with the socialization process, we concentrated on the instructional content of *voir dire*. Careful inspection of the transcripts, together with our previous observations in the courtroom, suggested the following categories of verbal communication:[2]

A. Communication by members of the court.
   1. Personal-biographical communication. Questions or statements about the personal-biographical characteristics of prospective jurors. For example: age, marital status, prior jury service, place of residence, and personal habits.
   2. Instructional communication.
      a. General instruction about courtroom procedures. Explanation of legal terminology, procedural issues and roles to be played during the trial. For example: the nature and purpose of the *voir dire*, kinds of evidence, and standards of proof.
      b. Explicit instruction about the jurors duties. Statements about what the juror should do to fulfill his obligations satisfactorily.
      c. Communication about one's ability to fulfill obligations of the juror's role. Statements and questions about values, attitutes, beliefs or experiences that could cause one to prejudge the case or be less than fair and impartial in his evaluation of the evidence.
      d. Communication about the importance of the jury system or the juror's role. Statements emphasizing the importance of adequate performance of the job or the high moral principles on which the jury system is based.
   3. Miscellaneous communication. All other questions and statements by members of the court. For example: transitional statements, exclamations, and statements that lay the groundwork for subsequent questions.
B. Communication by prospective jurors.
   1. Unsolicited statements.
   2. Replies to questions.

Statements by members of the court were further subdivided into two additional categories. First, we noted whenever the judge or the attorneys mentioned standards of proof (e.g., proof beyond a reasonable doubt) or the high moral principles underlying those standards (e.g., the defendant is innocent until proven guilty). Second, we indicated whenever they attempted to secure public commitment to the ideal norms of jury service.

Each sentence was coded separately. Incomplete sentences set off by periods in the transcripts were coded as if they were complete sentences. For example, if an attorney simply

replied, "Of course," to a juror's question, his response would have been recorded as a miscellaneous statement by a member of the court. In the event that a compound sentence could have been classified in two different categories because it contained two complete thoughts, the most dominant thought took precedence. Although the sentence was the unit of analysis, many statements were meaningful only when considered in their broader context. Consider the following remarks by the judge in one session:

> If any employer gives you heat over taking time off for jury duty, you let us know. It has happened that an employer who did was brought into court and fined $500. The jury system is the foundation of our democracy and if we ever get rid of that, you will wish you had served.

Were it not for the last sentence which is clearly intended to emphasize the importance of the jury system, the first two sentences might have been coded as miscellaneous statements. However, when considered in context all three sentences pertain to the sanctity of the jury system.

Independent coding by the authors resulted in a reliability coefficient (pi) of 0.89 (Scott, 1955; Holsti, 1969:140-141). In this particular index of reliability, the amount of agreement among coders expected by chance is subtracted from the amount of agreement actually observed.[3] Once again the small sample of trials was justified by the essential sameness of the *voir dire* from one session to the next.

## BECOMING A JUROR

There is a clearly defined life cycle of a juror's role, and passage from one stage to the next is demarcated by various formal observances. The process begins when the prospective juror receives a formal summons from the sheriff to appear in the county courthouse at a particular time. Once he arrives at the courthouse, the judge instructs the clerk to call the roll, and the names of those who have failed to appear are turned over to the sheriff for investigation. Then the judge briefly explains the nature and importance of the job for which they have been chosen, including the purpose of the *voir dire.* If there are no questions, the clerk administers an oath to insure the truthfulness of the prospective jurors during the *voir dire* examination. This is only the first of three oaths that the juror will take during the course of his service. Each of them concludes with the words, "so help you God," dramatizing the seriousness of the task at hand. Twenty-four prospective jurors are selected for the *voir dire* and the rest are excused for the day. A second oath is administered by the clerk, and then the attorneys for the prosecution begin their questioning. Upon completion of the *voir dire,* twelve jurors are chosen and the final oath is administered. Now begins the task that has occupied the attention of most social scientists who have studied the jury process – the trial and the jury's subsequent deliberation. At the conclusion of the jury term, the juror is excused and presented with a Certificate of Jury Service, a formal document signed by the judges of the District Court. For their time and effort, jurors are paid $12.00 per day whether they have ever been selected to serve on an actual jury or not.

### *The Juror's Handbook*

In addition to the formal summons and various oaths, the importance of the juror's role is

emphasized by a small handbook that every prospective juror receives before the *voir dire*. This pamphlet, entitled "Jury Duty: A Citizen's Privilege," briefly explains the nature of courtroom procedure and the process of jury selection. It contains a short glossary of legal terms that the juror can expect to hear in the courtroom, and it explains the nature of both civil and criminal trials. The pamphlet not only contains essential legal information, but tries to convince the prospective juror of the sacredness of the American jury system. According to the booklet, "the jury system is one of the foundations of our democracy and service as a juror is truly a citizen's privilege."

The pamphlet also contains the "Juror's Creed" prepared by the American Bar Association. The creed is stated in very personal and dramatic terms:

> My right to serve as a juror was pruchased for me by the blood and agony of my forefathers who wrested this precious right from tyrants .... My oath as a juror imposes upon me a sacred obligation which I will neither avoid nor shirk.

The creed then explains in lofty terms the kind of evidence that may be legitimately considered when the juror arrives at his decision:

> I will consider only the evidence introduced at the trial as it has been admitted by the judge as being competent under the rules representing the experience of mankind in the search for truth. .... I will remember that I am not trying the lawyers, the judge, the witnesses, or even the parties, but only the issues of fact in the case.

In conclusion, it stresses the magnitude of the task set before the juror:

> ... justice, once but a dream, is now a reality when I perform my full duty as a juror. No act of mine shall bring our system of liberty under law into disrepute. If this system fails it will not be because of me.

The creed, in short, attempts to elevate jury duty and sanctify the jury system by impressing prospective jurors with the importance of the job they are about to undertake. It also tries to buttress the ideals of fairness and impartiality by summarizing a few ideal rules of evidence and cautioning jurors against undue identification with the various personalities in the courtroom.

*The Setting*

The active socialization of the juror occurs entirely within the confines of the courtroom. Jurors meet in the same place at a preordained time day after day until the jury term is complete. The courtroom itself in an impressive setting. One is immediately struck by its formality: the high ceiling, subdued lighting, pastel colors, heavy oak furnishings, marble steps and even the ornate cut-glass water pitchers. The enormous room is clearly divided into several spheres of interaction. The jury box, for example, is a formal enclosure, and the section of the courtroom reserved for spectators is set off by a heavy oak railing. The judge's desk, itself a step above the rest of the courtroom is flanked by guilded Corinthian columns. The American flag stands just to the judge's right, the state flag to his left, and on the far right-hand side of the room is a large plaque inscribed with the Declaration of Independence.

Immediately behind the judge's seat is an enormous mural of three snow-white virginal women named "Liberty," "Justice" and "Freedom." The entire physical setting reminds the juror that he is far removed from his normal everyday surroundings.

The occasion is initially very solemn. The jurors and the small audience sit quietly waiting for the appropriate cues. Everyone rises when the judge, dressed in a long black robe, enters and takes his place at the head of the courtroom. Also present are the attorneys, the defendant, a clerk, the bailiff and a stenographer. Members of the court, to use Goffman's (1959) apt expression, are on-stage. The attorneys, for example, are usually dressed in dark suits, and although well acquainted with every member of the court, they use formal terms of address when speaking to one another in the presence of the jury.

The prospective juror finds himself in an unfamiliar and somewhat awesome situation. Although he may have watched hundreds of courtroom dramas on television, nothing he has seen has really prepared him for the *voir dire* because virtually all the dramatizations he has watched have been concerned with the later stages of the jury process. In a small way television may have prepared him for the trial itself, but not for the *voir dire.* The prospective juror is surrounded by "professionals." They alone are thoroughly familiar with the social organization of the courtroom. The juror is acutely aware that he is not yet a member of this miniature social system.

## *The* Voir Dire

After the judge has made his opening remarks and the second oath has been administered, the *voir dire* gets underway. Those who are unwilling or unable to serve may be excused at this point, if they have not been dismissed already. Although simple unwillingness is not an acceptable excuse, prospective jurors who would rather not serve generally have little difficulty finding reasons to be dismissed. The prosecuting attorney opens the questioning. Once he has finished the defense attorney takes his turn. The entire process may take as little as an hour or as long as several days.

During our observation in the courtroom it quickly became apparent that the *voir dire* (literally, to speak the truth) is not entirely true to its name. During the *voir dire,* attorneys supposedly question prospective jurors intensively to uncover any signs of bias that might cause them to prejudge the case. It would seem, therefore, that the jurors should do most of the talking. However, our content analysis indicates that only forty-one percent of all statements during the *voir dire* were made by prospective jurors. Even this figure is misleadingly high because it does not reflect either the nature of the length of the statements. Fewer than one percent of all comments by jurors were unsolicited. The remainder were rather perfunctory replies to questions by the attorneys. Most juror statements consisted of only one or two words. Indeed, fully sixty-three percent consisted of a single word, usually yes or no. The attorneys, in other words, clearly dominated the *voir dire.*

Presumably personal-biographical information should have occupied most of the attorneys' attention since the purpose of the *voir dire* is to ascertain the relevant feelings and experiences of the prospective jurors. However, not quite thirty-seven percent of the questions and comments made by members of the court concerned the juror's personal-biographical characteristics. Furthermore, most of the information requested appeared to be of little use. Only rarely did the attorneys ask for information that would have a direct bearing on the case at hand – e.g., whether or not the juror was acquainted with either the defendant or a member of the court. Forty-three percent of the statements made by the attorneys and the judge were classified as instructional; i.e., instruction about courtroom procedure, the juror's role, or

communication about the importance of the jury system. The remaining statements by members of the court, twenty-one percent, were classified as miscellaneous remarks. Most of these consisted of transitional statements, exclamations, and "small talk," often intended to reduce the formality of the situation.

The most explicit teaching that took place during the *voir dire* involved procedural matters – familiarizing the prospective jurors with the legal jargon and procedural knowledge necessary to function effectively in court and later in the jury room. For example:

> This part of the trial is called the *voir dire.*
> The state has to prove its case beyond a reasonable doubt.

> Ladies and gentlemen, you have probably heard the term "impeachment." Do you know what it is? Would you like for me to go into that for a minute?

Almost twenty-eight percent of the instructional statements made by the judge and the attorneys were placed in this category. Sooner or later all the significant features of the trial were brought out during the *voir dire:* standards of proof, circumstantial evidence, inadmissable testimony, and so on. Standards of proof – e.g., the distinction between proof beyond a reasonable doubt and a preponderance of evidence – were mentioned frequently throughout the *voir dire.* Some reference to these standards or their underlying principles of fairness and impartiality was made in twenty-six percent of all the instructional statements by members of the court.

Fifteen percent of the instructional remarks explicitly concerned the juror's role expectations. Virtually all of these statements were expressed in rather ideal terms:

> You realize that if you have a reasonable doubt you have an obligation to acquit?

> As the honorable judge has stated, you will be the determiners of the facts, and the judge will apply the law as you find the facts.

> If you are selected, one of the hardest jobs you will have is to determine the credibility of the witnesses – are they telling the truth?

Only a little more than three percent of all instructional statements stressed the importance of the juror's role or the jury system in general. However, the figure is misleading because most of these statements were made by the judge during his opening remarks when attention and interest in the proceedings was generally high. For example:

> The endeavors which you are here to impart are most solemn. The labor will be difficult but rewarding.

> The jury system is the foundation of our democracy, and if we ever get rid of that, you will wish you had served.

> . . . the basis of our [criminal justice] system is trial by jury, and if everyone wanted to be excused, we couldn't continue with the system.

As previously mentioned, one judge explained how he had fined an employer $500 for not allowing one of his employees time off for jury duty. He explained that jurors should consider it an honor to serve in spite of the inevitable inconvenience.

Over half (fifty-four percent) of the instructional statements made by members of the court concerned the prospective juror's ability to fulfill his role. Many remarks, virtually all of them questions, were very direct:

> Do you consider your relationship [with the defendant] such that you would give undue influence to his testimony?
>
> Is there anyone who feels that an element of sympathy cannot be laid aside?
>
> If you are to hear testimony from the witness stand but the fellow has long hair, would that fact affect your decision in the jury room?

Other questions involved more subtle allusions to possible sources of bias:

> Does the fact that this trial resulted in a hung jury before bother you?
>
> You won't be affected by what you do when you leave here?
>
> Can you resist the temptation of identifying with [the defendant]?

Although statements in this category hardly constitute direct instruction by the judge or the attorneys, their message is clear: Jurors must remain fair and impartial at all times.

The reader will notice that in every one of the examples in the preceding paragraph the attorney has asked a leading question that virtually demands a public commitment to the ideal norms of fairness and impartiality. The attorney not only makes an important point about the impending trial (e.g., the defendant's long hair should not influence the juror's decision), but he forces the juror to commit himself to a particular course of action in the presence of every other prospective juror. Members of the court asked jurors to publicly commit themselves in seventy-two percent of their instructional statements. In over two thousand replies by members of the jury panel, only twice did a prospective juror fail to give the expected response. The use of the commitment strategy was most apparent when the attorneys inquired about the prospective juror's ability to fulfill his role. More than ninety-five percent of those statements called for a public commitment from the juror.

During the course of the jury term the nature of the *voir dire* changes. Initially prospective jurors know very little about the social organization of the courtroom, and the attorneys must explain legal jargon and courtroom procedure in detail. However, as time passes jurors become more familiar with the *voir dire,* and the process becomes shorter each time as they learn to make the appropriate replies. During recesses the "old hands" who were accustomed to the *voir dire* could be overheard explaining legal terminology to persons who were being questioned for the first time. As the *voir dire* proceeds, especially toward the end of the jury term, the attorneys and the jurors become acquainted with one another and the initial formality of the scene lessens somewhat. For example, we observed some joking later in the sessions that we had not seen at first. Generally our observations suggest that jurors make a gradual transition from complete outsiders to members of the courtroom social system, however brief their membership might be.

## DISCUSSION

Our observations and content analysis of the *voir dire* both suggest that the pretrial examination of prospective jurors has an important latent function that has been overlooked by social scientists. The *voir dire* is a mechanism for acquainting ordinary citizens with legal terminology and courtroom procedure as well as for familiarizing them with the ideal norms that constitute the juror's role expectations. It is, in other words, a means of socializing prospective jurors. Ideally the juror should set aside most of the decision-making rules of everyday life. He should delay judgment until all the evidence has been presented. He should not allow sympathy, personal prejudice, or personality conflicts to influence his decisions. In the course of deliberation he should avoid becoming so ego-involved in a particular point of view that he loses sight of the jury's principal goal – the discovery of "truth." Of course what we have described is an ideal role model and not the actual behavior of jurors. Although role performance inevitably departs from the ideal (cf. Garfinkle, 1967:104-115), the *voir dire* has several features that should facilitate adoption of the juror's role and its rules for decision making.

Two aspects of the physical setting of the *voir dire* appear to be important vehicles of socialization. First, the entire process takes place in a single room far removed from the juror's normal surroundings. According to Secord and Backman (1974:436-437), the strain caused by conflicting role expectations may be reduced by physically segregating conflicting activities. For example, most American males are subject to differing role expectations at work and at home, but since most work activities are physically and temporarily segregated in our society, possible conflicts are minimized. In the present case, the juror is asked to momentarily give up longstanding methods of weighing evidence and making decisions. Were he asked to do this in his normal surroundings, the task would probably be insurmountable. The complete segregation of the juror's activities, however, minimizes the conflicts that would inevitably result from having to use two different sets of decision-making rules simultaneously.

The second feature of the physical setting is the room itself. The courtroom is more than a physical container for certain patterned activities. One has only to consider the differences between a church and a concert hall to realize that physical settings have meaning attached to them that have profound effects on the social activities that go on inside (Bennett and Bennett, 1970; Driessen and Pyfer, 1975). Ball (1967), for example, has shown how the physical layout of a Mexican abortion clinic puts clients at ease and legitimizes the clinic's practice by fostering the appropriate medical image. The waiting room is spacious and luxurious, while the operating room is spotlessly clean and full of medical paraphernalia that are essentially props intended to neutralize the negative stereotypes associated with abortion. In the same manner the physical features of the courtroom foster an image of solemn formality and great purpose. This image is reinforced by the formal attire of the members of the court and their formal modes of addressing each other. Because the adoption of a role is directly related to the role's importance (McCall and Simmons, 1966:82-83; Secord and Backman, 1974:435-436, 442), the physical setting of the courtroom should facilitate the adoption of the juror's role to the extent that it conveys an image of high purpose and great importance.

Another important feature of the *voir dire* is the unfamiliarity of the scene. When he first enters the courtroom there is little that is familiar to the prospective juror, so the taken-for-granted routines and assumptions of everyday life are of little use. The initial ambiguity of the situation tends to make one uneasy and heighten sensitivity to social cues (Sherif and Harvey, 1952), thereby making him more receptive to the socialization process. Upon entering the strangely formal world of the courtroom, we believe most prospective jurors are anxious and

ready to be led. They are prepared to be molded into the juror's role by anyone willing to offer direction.

The actual socialization of jurors occurs during the *voir dire*. While it is ostensibly a means of selecting unbiased jurors, it may also help create them – although we would prefer the term "less biased" to "unbiased." In the course of their questioning, the judge and the attorneys engage in a considerable amount of instruction – forty-three percent of all their communication with members of the jury panel. The importance of the juror's role is stressed by the issuance of a formal summons and the administration of oaths as well as by direct statements about the seriousness of the task and the sacredness of the jury system. Prospective jurors are taught the fundamentals of courtroom procedure and their role expectations are clarified. The frequent demands for public commitment to various ideal norms is especially significant. According to the theory of cognitive dissonance (Festinger, 1957; Brehm and Cohen, 1962), one who voluntarily commits himself to a course of action must reduce any conflicts about his decision by justifying it to himself. He does this by reordering the priority of his values – he either devalues the foregone alternative or upgrades the one he has chosen. In the present case the result should be an increase in actual commitment to the norms the juror has endorsed. Furthermore, the public nature of his commitment leaves him open to criticism should he deviate too far from the norm when deliberations actually begin.

Another element of cognitive dissonance may be introduced by the small amount of money used to reimburse the jurors – $12.00 per day. This is hardly a significant sum for most jurors, especially considering the inconvenience generally caused by jury duty. In addition, jurors are not compelled to serve – there are many ways of getting excused from the task. Consequently the prospective juror faces what dissonance theorists call insufficient justification. He has voluntarily agreed to play a time-consuming and financially unrewarding role. According to dissonance theory, the juror's resulting psychological conflict should be resolved by increasing the importance of the role in his own mind.

Viewed as a whole, the *voir dire* appears to constitute a legal rite of passage (Van Gennep, 1960). Whenever an individual must pass from one social status to another, he may have difficulty enacting his new role if the two positions involve conflicting expectations. For example, in her classic discussion of "discontinuities in cultural conditioning," Benedict (1938) argued that the "storm and stress" of adolescence is caused by the conflicting expectations associated with childhood and adulthood. Children are expected to be submissive, nonresponsible, and sexless, whereas adults should behave in just the opposite manner. A rite of passage is a ritual that dramatizes and facilitates the passage from one status to another. According to Van Gennep, it clarifies the individual's new position and helps compartmentalize his social activities. Van Gennep argues that a rite of passage generally entails expressive symbolic enactments of the transformation, such as washing to symbolize separation or crossing a doorway to express transition. However, the absence of such symbolism in the *voir dire* should not blind us to the functional similarity between the process of selecting a jury and other rites of passage. The *voir dire* certainly appears to be a mechanism for easing the transition between the status of "ordinary citizen" and membership in the courtroom social system.

## METHODOLOGICAL IMPLICATIONS

The data presented in this paper are only suggestive because we have not measured the effectiveness of the *voir dire* as a means of socializing prospective jurors into their new role. Garfinkle's (1967) analysis of jury deliberations indicates that juror's actual behavior departs

from the ideal role model we have described. Much of what jurors learn during the *voir dire* and elsewhere, he argues, simply consists of the appropriate verbalizations, or what he calls the "official juror line." However, human behavior almost always deviates from ideal norms, regardless of the situation. To admit that jurors do not always live up to their role expectations is not to deny that prospective jurors make significant changes in their decision-making rules during the *voir dire.*

Other writers (Buckhout et al., (1973); Schulman et al., 1973) have noticed these changes but have not fully recognized their significance. For example, Buckhout et al. (1973:16), quote a steamfitter who was interviewed after a trial:

> When you see a Black man in the courtroom, you automatically feel he's guilty, and you think, let them hang him, but once you become a juror you decide you have to be fair.

Schulman and his colleagues (1973), who worked closely with defense attorneys in the Harrisburg Seven trial, were surprised to learn that most of the jurors took their role as impartial decision makers more seriously than they had anticipated.

> Most of them tried earnestly to consider the defendants "innocent until proven guilty." It seems wise to consider a person's conception of the role of juror as a distinct characteristic when assessing jurors. A person . . . may be fair because he believes this role requires fair play even though he disapproves of the defendants on many grounds. (Schulman et al., 1973:83)

Unfortunately, the authors failed to develop this insight into anything more than a passing observation.

Experimental studies of jury deliberation using mock juries differ from the "real life" situation in two important ways. First, no matter how intensely experimental subjects become involved in the case, they are still only playing a game. Games can be just as engrossing as real life, but the players realize that no one's future depends on the outcome. Second, and more germane to this paper, mock jurors do not undergo the same period of socialization to ease their transition into the juror's role. Although we can only speculate, this difference may limit the "external validity" (Campbell and Stanley, 1963:5-6), or the ability to generalize, of most experimental jury studies. In a significant observation that passes completely without comment, Buckhout et al., (1973) note that one of their mock juries reached a verdict in five minutes while a real jury had taken five hours to discuss the same case. The enormous differences in the amount of deliberation between these two juries suggests that the real jurors took their job far more seriously than did the members of the parallel jury.

Studies of jurors' attitudes and prior experiences have focused on the *voir dire,* but only as a means of dismissing "unsuitable" jurors. They, like the experimental studies, have ignored the *voir dire's* latent function as a mechanism for socializing prospective jurors. These studies are based on the outmoded model of human behavior. They naively assume that the values and attitudes that one brings into any given situation – in this case the jury room – determine how he is going to behave. Attitudes, however, are notoriously poor predictors of behavior (Deutscher, 1973). Individuals are constantly changing as they assume new roles and experience new situations, and there is no reason to assume that persons chosen for jury duty should be any different.

The results of this study suggest that social scientists need to reformulate their conception

of the juror's task. For too long the activities of jurors have simply been viewed as the behavior of individuals within the jury room. Instead, our analysis suggests that the juror's job might be more profitably conceptualized as a social role. By changing our conception of jury duty we open a new line of investigation. Future research on juries should explore the significance of the juror's role to its occupants, as well as the extent to which the socialization process during the *voir dire* helps prospective jurors set aside their normal decision-making rules.

## NOTES

[1] For additional examples of simulated jury studies see Fraser et al., 1975; Landy and Aronson, 1969; Nemeth and Sosis, 1973; Reynolds and Sanders, 1973; Sue, Smith and Caldwell, 1973.

[2] A complete copy of the coding manual is available on request from the senior author.

[3] Scott's formula is as follows:

$$pi = \frac{\% \text{ observed agreement} - \% \text{ expected agreement}}{1 - \% \text{ expected agreement}}$$

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